

REMARKS

Initially, in the Office Action the Examiner has rejected claims 1-16, 18-40, 42-51 and 53-65 under 35 U.S.C. §101. Claims 1-10, 12-16, 18, 20-30, 32-35, 37, 38, 40, 43-50 and 52-63 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,143,153 (Black et al.). Claim 11 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent Application Publication No. 20050027892 (McCabe et al.). Claim 19 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent Application Publication No. 20040199815 (Dinker et al.).

Claims 31 and 39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent No. 6,510,432 (Doyle). Claim 36 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent No. 6,438,539 (Korolev et al.). Claims 42 and 64 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of U.S. Patent Application Publication No. 20030217068 (Fruchtman et al.).

By the present response, Applicant has canceled claim 28 and amended claims 1, 2, 29, 30, 32 and 44 to further clarify the invention. Claims 1-16, 18-27, 29-40, 42-51 and 53-65 remain pending in the present application.

Examiner Interview

Applicant thanks the Examiner for the telephonic interview held on December 9, 2008. During the interview, Applicant's proposed claim amendments were discussed in view of the Black et al. reference. The Examiner also suggested features in Applicant's specification that if incorporated into the claims may put the application in better condition for allowance. In accordance with these suggestions, Applicant submitted a revised set of proposed claim amendments to the Examiner that the Examiner reviewed and responded appear

to overcome the current rejections. These claim amendments have been incorporated in this Response.

Response to Arguments

In the Response to Arguments portion of the Office Action, the Examiner maintains the rejections and asserts that Black et al. still anticipates Applicant's claims. The Examiner then identifies portions of Applicant's claims and cites portions of Black et al. that the Examiner asserts discloses these limitations. However, the Examiner merely admits what Applicant has been asserting, that Black et al. merely relates to comparing resource attributes with a threshold value. This is not collecting data and metrics. Further, the Examiner admits what Applicant has asserted that Black et al. merely discloses transferring information or results from the comparison. Black et al. does not disclose or suggest a base station receiving collected data or metric from a probe. Black et al. relates to sending a result of the comparison.

Moreover, col. 12 and col. 13 portions of Black et al. cited by the Examiner have nothing to do with a base station to receive the collected data or metric from associated ones of the plurality of probes, as recited in the claims of the present application. The portions in Black et al. cited by the Examiner merely relate to network devices replicating changes made to their internal databases and copying logging data into a database. Replicating and copying as disclosed in Black et al. is not receiving collected data or metric from associated ones of the plurality of probes, as recited in the claims of the present application.

35 U.S.C. §101 Rejections

Claims 1-16, 18-40, 42-51 and 53-65 have been rejected under 35 U.S.C. §101. During the Examiner Interview, the Examiner stated that after review of Applicant's proposed claim amendments the §101 rejections have been overcome. Accordingly, Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

35 U.S.C. §102 Rejections

Claims 1-10, 12-16, 18, 20-30, 32-35, 37, 38, 40, 43-50 and 52-63 have been rejected under 35 U.S.C. §102(e) as being anticipated by Black et al.

Applicant re-asserts all arguments submitted in Applicant's previously filed response. Applicant respectfully traverses these rejections and provides the following additional remarks.

Regarding claims 1 and 44, Applicant submits that Black et al does not disclose or suggest the limitations in the combination of each of these claims of, *inter alia*, wherein the at least one probe comprises a system probe to gather operating system data and metrics. The Examiner asserts that these limitations are disclosed in Black et al. at col. 37, lines 19-35. However, these portions merely disclose that Fault, Configuration, Accounting, Performance and Security (FCAPS) management are the five functional areas of network management as defined by the International Organization for Standardization (ISO), where fault management is for detecting and resolving network faults, configuration management is for configuring and upgrading the network, accounting management is for accounting and billing for network usage, performance management is for overseeing and tuning network performance, and security management is for ensuring network security, and that a GUI provides a status button for each of the five FCAPS where by clicking on one of the status buttons, a status window appears and displays the status associated with the selected FCAPS button to the network administrator. This is not wherein the at least one probe comprises a system probe to gather operating system data and metrics, as recited in the claims of the present application. Neither these portions nor any other portions of Black et al. disclose or suggest gathering operating system data and metrics. Black et al. merely discloses that by clicking on a status button, status associated with one of fault management, configuration management, accounting management, performance management or security management may be displayed.

Moreover, Applicant submits that Black et al. does not disclose or suggest the collected data being transferred from the at least one probe of the at least one host to the at least one base station on a low priority thread scheduled when higher priority threads of an operating system of the at least one host machine are not doing any useful work, or a server, the server interfacing between a

browser and the at least one base station, a data structure running on the server being capable of retrieving selected data and streaming out live or real-time trends and reports of operation or performance of each of the domains, as recited in the claims of the present application. These limitations are not disclosed by Black et al. or any of the other asserted references.

Regarding claims 2-10, 12-16, 18, 20-30, 32-35, 37, 38, 40, 43, 45-50 and 52-63, Applicant submits that these claims are dependent on one of independent claims 1 and 44 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims.

Accordingly, Applicant submits that Black et al. does not disclose or suggest the limitations in the combination of each of claims 1-10, 12-16, 18, 20-30, 32-35, 37, 38, 40, 43, 44-51 and 53-63 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

35 U.S.C. §103 Rejections

Claim 11 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Black et al. in view of McCabe et al. Applicant respectfully traverses this rejection and submits that this claim is dependent on independent claim 1 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that McCabe et al. does not overcome the substantial defects noted previously regarding Black et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of claim 11 of the present application. Applicant respectfully requests that this rejection be withdrawn and that this claim be allowed.

Claim 19 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of Dinker et al. Applicant respectfully traverses this rejection and submits that this claim is dependent on independent claim 1 and, therefore, is patentable at least for the same reasons noted

previously regarding this independent claim. Applicant submits that Dinker, et al. does not overcome the substantial defects noted previously regarding Black et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of claim 19 of the present application. Applicant respectfully requests that this rejection be withdrawn and that this claim be allowed.

Claims 31 and 39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of Doyle. Applicant respectfully traverses these rejections and submits that these claims are dependent on independent claim 1 and, therefore, are patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that Doyle does not overcome the substantial defects noted previously regarding Black et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 31 and 39 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Claim 36 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of Korolev et al. Applicant respectfully traverses this rejection and submits that this claim is dependent on independent claim 1 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that Korolev et al. does not overcome the substantial defects noted previously regarding Black et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of claim 36 of the present application. Applicant respectfully requests that this rejection be withdrawn and that this claim be allowed.

Claims 42 and 64 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Black et al. in view of Fruchtman et al. Applicant respectfully

traverses these rejections and submits that these claims are dependent on one of independent claims 1 and 44 and, therefore, are patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that Fruchtman et al. does not overcome the substantial defects noted previously regarding Black, et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 42 and 64 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Conclusion


In view of the foregoing amendments and remarks, applicant submits that claims 1-16, 18-27, 29-40, 42-51 and 53-65 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested. If the Examiner has any questions about the present Amendment or anticipates finally rejecting any claim of the present application, a telephone interview is requested.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 13-4365.

Respectfully submitted,

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Date: December 11, 2008



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